

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>ROBERTO CANO</b>	)	
Claimant	)	
VS.	)	
	)	Docket Nos. 186,576 & 214,372
<b>IBP, INC.</b>	)	
Respondent	)	
Self-Insured	)	

**ORDER**

Claimant requested the Appeals Board to review the preliminary hearing Order dated December 24, 1996, entered by Administrative Law Judge Kenneth S. Johnson.

**ISSUES**

The Administrative Law Judge denied claimant's request for additional medical treatment. Claimant contends the Administrative Law Judge erred in failing to order additional medical treatment or to order a change of treating physician.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds as follows:

At this juncture of the proceeding the Appeals Board does not have the jurisdiction to review the issues raised in this preliminary hearing. Therefore, claimant's Application for Review should be dismissed.

The issues presented to the Appeals Board are whether claimant is entitled to additional medical treatment or to a change of treating physician. Those preliminary hearing issues are not jurisdictional so as to be reviewable under K.S.A. 1996 Supp. 44-

534a. Furthermore, because the Administrative Law Judge has not exceeded his jurisdiction by denying claimant's requests, this matter is not presently reviewable under K.S.A. 1996 Supp. 44-551. The preliminary hearing statute, K.S.A. 1996 Supp. 44-534a, specifically empowers the administrative law judges to adjudicate issues concerning medical treatment.

In his brief claimant requests an award for attorney fees. Because that request was neither an issue nor addressed in any manner before the Administrative Law Judge, the Appeals Board is unable to consider that request for the first time on this review. See K.S.A. 1996 Supp. 44-555c which limits Appeals Board review to those questions of law and fact presented to the Administrative Law Judge.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that this Application for Review should be, and hereby is, dismissed. The preliminary hearing Order dated December 24, 1996, entered by Administrative Law Judge Kenneth S. Johnson remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February 1997.

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BOARD MEMBER

c: Stanley R. Ausemus, Emporia, KS  
Craig A. Posson, Dakota City, NE  
Kenneth S. Johnson, Administrative Law Judge  
Philip S. Harness, Director